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Issued

PENNSYLVANIA STATE PROGRAMMATIC GENERAL PERMIT PASPGP-~~24~~

TO WHOM IT MAY CONCERN:

Part I – Authorities:

A. Federal Authorities:

1. Section 404(e) of the Clean Water Act (CWA) (33 U.S.C. 1344) allows for the issuance of State programmatic general permits (PASPGP's), which operate in conjunction with a State regulatory program that protects the aquatic environment in a manner equivalent to the Department of the Army regulatory program, provided that the activities permitted under a PASPGP-2 are similar in nature and result in no more than minimal individual or cumulative adverse effects on the environment. This PASPGP-~~24~~ is issued pursuant to Section 404(e) and is based on and consistent with the Guidelines described in Subsection 404(b)(1) of the CWA.
2. Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the CWA, as amended, and Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged, or fill material or structures into Waters of the United States, including wetlands. These discharges and structures must comply with all the terms, conditions, and processing procedures identified in this PASPGP-~~24~~.
3. Section 404(q) of the CWA states that agreements are to be entered into to minimize to the maximum extent practicable, duplication, needless paperwork and delays in the issuance of permits. Memorandum of Agreements (MOA's) have been developed between U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and Environmental Protection Agency (EPA) to outline the means for establishing these goals. The coordination, communication process, professional partnerships, and cooperative working relationships established by these MOA's will be maintained where applicable in this PASPGP-~~24~~.
4. Section 404 (c) of the CWA authorizes the Administrator of EPA to prohibit the specification of any defined area as a disposal site, and to deny or restrict the use of any defined area for specification as a disposal site, whenever the Administrator determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

B. State Authorities:

1. The Dams Safety and Encroachments Act, 32 P.S. 693.1 – 693.27
2. The Clean Streams Law, 35 P.S. 691.1 – 693.1001
3. Dam Safety and Waterway Management Rules and Regulations, 25 Pa. Code, Chapter 105

Part II – Scope of Activities:

A. Applicability:

This authorization applies to the discharge of dredged, or fill materials or structures into Waters of the United States, including “navigable waters ~~as regulated by Section 404 of the Clean Water Act and Section 10 of the River and Harbor Act of 1899.~~” Discharges of dredged, or fill materials or structures that comply with all terms, conditions, and processing procedures contained in the Pennsylvania State Programmatic General Permit (PASPGP-~~24~~) and have only minimal individual and cumulative impacts are authorized. Discharges associated with excavation activities are defined in the August 25, 1993 Federal Register, 58 FR 45008. ~~The term “discharge of dredged material” means any addition of dredged material, including any redeposit of dredged material within, Waters of the United States, which constitutes more than incidental fallback. The term “discharge of fill material” means the addition of any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term “structure” shall include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction.~~ The term “Waters of the United States” means all waters defined by Federal Regulations 33 CFR Part 328 and 329. For purposes of this permit, the acreage of impact to waters of the United States including jurisdictional wetlands includes the direct impact (i.e., the fill area) plus the area of waters of the United States that are indirectly affected by flooding, excavation, or drainage as a result of the project.

- B. Activities Not Authorized – The following activities are ineligible for this PASPGP-~~24~~. To receive Federal authorization for these activities, an appropriate permit application must be submitted to the applicable Corps District Office:
1. Activities which are reviewed and authorized by Chapter 105 permits in conjunction with coal and non-coal mining permits issued by the Pennsylvania Department of Environmental Protection (PADEP) District Mining Offices.
 2. Activities waived at 25 PA Code 105.12(a)(1).
 3. Activities located waterward of the ordinary high water line or the mean high tide line on the following Pennsylvania waterbodies.
 - (a) All of the Delaware River,
 - (b) The Schuylkill River downstream of the confluence with Mill Creek at Port Carbon, Pennsylvania,
 - (c) The Lehigh River downstream from the State Route 940 Bridge,
 - (d) All of the Ohio River,
 - (e) All of the Beaver River,
 - (f) All of the Little Beaver River,
 - (g) All of the Mahoning River,
 - (h) All of the Monongahela River,
 - (i) The Youghiogheny River from its mouth at McKeesport, Pennsylvania to river mile 31.2 at West Newton, Pennsylvania,
 - (j) The Allegheny River, from its mouth in Pittsburgh, Pennsylvania to river mile 197.4 at Kinzua Dam, north of Warren, Pennsylvania.
 - (k) The Kiskiminetas River from its mouth near Freeport, Pennsylvania to river mile 26.8 at Saltsburg, Pennsylvania, and
 - (l) Tenmile Creek from its mouth at Millsboro, Pennsylvania to river mile 2.7.
 - (m) Activities within Lake Erie which require submittal of a Joint Permit Application or Environmental Assessment to the PADEP.
 4. Instances where EPA’s Regional Administrator has notified the District Engineer and applicant in writing that he intends to use his authority under 404(c) of the CWA to prohibit, deny, restrict, or withdraw the use for specification, of any defined area for the discharge of dredged, ~~excavated~~, or fill material at the proposed site.

5. Activities that have been denied a PADEP Chapter 105 Permit or a CWA Section 401 Water Quality Certification.
6. Activities that are submitted for authorization for the purpose of resolving violations of the CWA or the River and Harbor Act of 1899 without notification and approval to proceed with processing an after-the-Fact (ATF) Permit Application by the Corps District and PADEP.
7. Activities that will result in a total of one acre five acres or more of impacts to Waters of the United States, including jurisdictional wetlands. The acreage of impacts to Waters of the United States includes the direct impact (i.e., the fill area), plus the area of Waters of the United States including jurisdictional wetlands which are indirectly adversely affected by flooding, excavation, or drainage as a result of the project. The one-acre impact limitation applies to the total impact of all components of a single and complete project, regardless of the type of PADEP authorization, or combination of authorizations, used to approve the project.
8. Activities authorized by PADEP General Permit 15.

C. This PASPGP-2 does not grant any property rights or exclusive privileges; it does not authorize injury to the property or rights of others; it does not authorize interference with a Federal project.

Part III – Requirements and Conditions:

For an activity involving a structure or discharge of dredged or fill materials into Waters of the United States to be authorized by this PASPGP-24, it must meet the following requirements and conditions:

- A. The activity must receive State authorization. For the purpose of this condition, any one of the following would be considered as State authorization:
 1. A PADEP Chapter 105 Water Obstruction and Encroachment Permit, including a PADEP approved Environmental Assessment per 25 Pa. Code 105.15, or
 2. A PADEP General Permit issued per 25 Pa. Code 105.441 – 105.449, or
 3. A PADEP approved Environmental Assessment for activities not otherwise requiring a PADEP permit per 25 Pa. Code 105.15, or
 4. A CWA Section 401 Water Quality Certification for activities which qualify for waiver of PADEP permit requirements per 25 Pa. Code 105.12(a), or
 5. A PADEP Dam Permit, including a PADEP approved Environmental Assessment per 25 Pa. Code 105.15, or
 6. A PADEP Letter of Authorization for maintenance or repairs to existing authorized dams, including maintenance dredging or
 7. A PADEP Emergency Permit issued per 25 Pa. Code 105.64.
 8. The maintenance provision of a previously authorized PADEP permit for the construction of a bridge or culvert (including bridges and culverts authorized by PADEP prior to the implementation of the PASPGP-1 in March 1995), which allows for maintenance activities of bridges and culverts.
- B. All other applicable Federal, State and/or local authorizations or approvals must be secured prior to initiating any discharge of dredged, or fill material or structures into Waters of the United States, including wetlands. These approvals include, but are not necessarily limited to, the following:

1. A Section 401 Water Quality Certification issued by PADEP pursuant to Section 401 of the CWA.
 2. A Consistency Determination issued by PADEP pursuant to Section 307 of the Federal Coastal Zone Management Act for activities located within designated Coastal Zone Management Areas.
- C. The following general conditions must be followed in order for any authorization by the PASPGP-24 to be valid:
1. Proper maintenance. Any fill or work authorized shall be properly maintained, including maintenance to ensure public safety.
 2. Erosion and siltation controls. Appropriate erosion and siltation controls in accordance with State regulations must be used and maintained in effective operating condition during construction, and all exposed soil and other fill must be permanently stabilized at the earliest practicable date.
 3. Aquatic Life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
 4. Equipment. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance, including avoiding the use of such equipment, ~~if possible.~~
 5. National Wild and Scenic Rivers. Activities which occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "Study River" for possible inclusion in the system are not authorized by this PASPGP-24, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. These designated rivers include:
 - (a) The Upper Delaware Scenic and Recreational River, including the designated buffer area, beginning at Hancock, New York, and continuing 73.4 river miles to Mill Rift, Pennsylvania.
 - (b) The Middle Delaware Scenic and Recreational River as it flows through the Delaware Water Gap National Recreation Area.
 - (c) The Allegheny River, from the Kinzua Dam, downstream seven miles to the US Rt. 6 Bridge in Warren, Pennsylvania, from, Buckaloons Recreation Area in Allegheny National Forest downstream 47 miles to Alcorn Island just north of Oil City and from Franklin, Pennsylvania downstream 31 miles to the refinery at Emlenton, Pennsylvania.
 - (d) The Clarion River from Mile 91.1 in the Borough of Ridgeway, Elk County, Pennsylvania, at the National Forest and Gamelands Boundary to Mile 39.4 at the normal pool elevation of Piney Dam.

The Study Rivers include:

- (a) The Lower Delaware River beginning seven river miles north of Belvidere, New Jersey, continuing to Washington Crossing, Pennsylvania, including Cooks Creek, to Richlandtown Pike/ Richlandtown Road, all of the Tinicum Creek including Rapp Creek and Beaver Creek Tributaries, and Tohickon Creek to Pumping Station Road.
- (b) The White Clay Creek watershed including all of its tributaries.

As stated in Part II.B.3. above, activities located waterward of the ordinary high water (OHW) line or mean high tide (MHT) line in the Delaware River and Allegheny River are ineligible for the PASPGP-2, while activities located in wetlands landward of the OHW or MHT lines of these rivers are eligible for authorization under the PASPGP-2

6. Tribal rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reversed water rights and treaty fishing and hunting rights.
7. Endangered Species. If the proposed activity may affect a Federal listed species or a species proposed for listing or their critical habitat, a District Engineer must initiate consultation with FWS and NMFS in accordance with the Federal Endangered Species Act (ESA) prior to authorization of the activity under the PASPGP-2+. No activity is authorized under the PASPGP-2+ which is likely to, individually or cumulatively, jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA, or which is likely to destroy or adversely modify the critical habitat of such species identified under ESA. If an activity is authorized under the PASPGP-2+, and ~~during construction~~ a Federal listed species or critical habitat is subsequently found to be present, all work must cease and the permittee must notify the Corps of Engineers. The PASPGP-2+ authorization is suspended until the conclusion of Section 7 consultation in accordance with ESA. The PASPGP-2+ authorization may be revoked for the specific project if the species or critical habitat is adversely affected. If it is determined that there will be no adverse effect or that an adverse effect can be mitigated, the PASPGP-2+ will be reinstated for the specific activity with any appropriate mitigation conditions. Furthermore, persons have an independent responsibility under Section 9 of the ESA to not engage in any activity that would result in a "take" of a Federal list species.
8. Cultural Resources. No activity is authorized under the PASPGP-2+ which may adversely affect cultural resources listed or eligible for listing in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act are met. The applicant must notify the State Historic Preservation Officer (SHPO), at the Pennsylvania Historical and Museum Commission (PHMC), using the PADEP Cultural Resources Notification Form and include a copy of the form as proof of notification in their application.

Upon the discovery of the presence of a previously unknown historic or archaeological site, all work must cease and the permittee must notify the SPHO and the Corps of Engineers. The PASPGP-2+ authorization is suspended until it is determined, through the Section 106 consultation process, whether the activity will have an adverse affect on the cultural resource. The suspended authorization under PASPGP-2+ may be reactivated or modified, through specific conditions if necessary, if it is determined that the activity will have no adverse effect on the cultural resource. The PASPGP-2+ authorization may be revoked for the specific activity if the cultural resource will be adversely affected.
9. Water supply intakes. No discharge of dredged, ~~excavated~~, or fill material or structure may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization, unless Corps of Engineers approved and appropriate mitigation measures are to be implemented which will protect the water supply.
10. Shellfish production. No discharge of dredged, ~~excavated~~, or fill material or structure may occur in areas of concentrated shellfish production, unless the discharge is directly related to an authorized shellfish harvesting activity.
11. Suitable material. No discharge of dredged, ~~excavated~~, or fill material or structure may consist of unsuitable material or solid waste (e.g., asphalt, trash, debris, car bodies, etc.) and all material discharged must be free from toxic pollutants in toxic amounts pursuant to Section 307 of the CWA.

12. Mitigation. Discharges of dredged, ~~excavated~~, or fill material or structures into Waters of the United States must be avoided and minimized to the maximum extent practicable at the project site. Once avoidance and minimization of unavoidable adverse impacts has been demonstrated, compensatory mitigation may be used to offset unavoidable adverse impacts. The Pennsylvania Wetland Replacement Project (Fund) may be used to compensate for impacts approved under the authority of PASPGP-2, provided the projects meet PADEP's qualifications for the use of the Fund as per PADEP's current Guidelines for Restoration Projects and is in accordance with the PASPGP-2 Standard Operating Procedures document
13. Spawning areas. ~~Excavation, d~~Discharges or structures in spawning or nursery areas shall not occur during spawning seasons. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of the year. The permittee shall comply with all time-of-year restrictions as set forth by the PA Fish and Boat Commission (PFBC). For more information regarding time-of-year restrictions contact the PFBC at (814) 359-5145.
14. Obstruction of high flows. To the maximum extent practicable, discharges or structures must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters.)
15. Adverse impacts from impoundment. If the discharge or structures creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, including impacts to wetlands, shall be minimized to the maximum extent practicable.
16. Waterfowl breeding areas. Discharges or structures in breeding areas of migratory waterfowl must be avoided to the maximum extent practicable.
17. Removal of temporary fills. Any temporary fills or structures must be removed in their entirety and the affected areas returned to their preexisting elevation.
18. Inspections. The permittee shall permit a District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with all the terms and conditions of the PASPGP-~~2~~4.
19. Single and Complete Projects. The PASPGP-~~2~~4 shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project, and shall be evaluated together, for purposes of PASPGP-2 authorization. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. For purposes of this condition, all proposed phases of multi-phased projects all previously authorized phases of multi-phased projects will remain authorized, unless expired, and any additional planned phases will be evaluated for authorization, cumulatively with all the previously authorized phases as a single and complete project. This general permit shall not be used for any activity that is part of an overall project for which an individual permit is required.
20. False and incomplete information. If any of the information contained in the Pennsylvania/Corps Joint Permit Application, PADEP General Permit registration, PADEP Environmental Assessment and/or plans is found to be in error, falsified, and/or incomplete, the PASPGP-~~2~~4 authorization may be subject to modification, suspension, or revocation in accordance with 33 CFR 325.7.
- ~~21. Section 404(b)(1) Guidelines. No activity may be permitted under the PASPGP-1 that is not in full conformity with the Section 404(b)(1) Guidelines. The Corps is responsible for insuring compliance with the Guidelines. (See Condition #12 above and Section IV.C.2. regarding the 404(b)(1) Guidelines)~~
- ~~22. Agricultural activities. For Pennsylvania Waivers 7 or 8 to qualify for the PASPGP-1, For agricultural activities to qualify for Section 404(f) exemptions, the activities must be part of an established (i.e., on-going) farming, silviculture, or ranching operation. Activities on areas lying~~

~~follow as part of a conventional rotational cycle are part of an established operation. Activities which bring an area into farming, silviculture or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations. Plowing does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any area of the Waters of the United States to dry land.~~

21. PADEP Conditions. The permittee shall comply with all terms and conditions set forth in the PADEP authorization, including all conditions of Section 401 Water quality Certification, and any subsequent amendment or modification to such Authorization.

22. Compliance. The permittee shall conduct all work and activities in strict compliance with all approved maps, plans, profiles, and specification used by PADEP and/or the Corps as the basis for its authorization or subsequent modification or authorization.

23. Permit Modifications. Any proposed modification of the authorized project that results in a change in the authorized impact to, or use of, waters of the United States, including jurisdictional wetlands, must be approved by PADEP. Corps approval is also required if the Corps issued an authorization for the project, or if the proposed modification causes the total project impacts to exceed one acre of waters of the U.S including jurisdictional wetlands, or 250 linear feet of streams, rivers, or other jurisdictional waterbodies including open water areas.

~~23.~~24. The project-specific PASPGP-2 authorization is valid for the same period as the project-specific PADEP authorization, not to exceed three years from the date of authorization, unless modified or extended. PASPGP-2 authorization for PADEP General Permits shall not exceed three years.

25. One-time use. A project-specific PASPGP-2 authorization is valid to construct the project, or perform the activity, one time only, except for maintenance activities associated with the authorized activity.

Part IV – Permit Processing:

~~A. A.~~ Application Submittal by Applicants: ~~Except for activities waived at 25 Pa Code 105.12(a)(2) through (10), and (12) through (15),~~ Those who propose regulated activities must identify all impacts to waters of the U.S., including the direct and indirect impacts, both temporary and permanent, that are components of a single and complete project, including all attendant features, and must apply for the necessary Commonwealth and Federal authorization by one of the following:

1. For PASPGP-2 Eligible Activities:

(a)~~4.~~ Completing and submitting 3 copies of the appropriate Pennsylvania/Corps Joint Permit application form to the appropriate PADEP Regional Office and notifying the PHMC using the PADEP Cultural Resource Notification Form or other PHMC accepted format and providing proof of the notification and/or response from PHMC, with the permit application; or

(b)~~2.~~ Registering Registration of a PADEP Chapter 105 General permit at the appropriate PADEP Regional Office or, where applicable, the Delegated County Conservation District Office; or

(c)~~3.~~ Completing and submitting to the appropriate PADEP Office, a PADEP Environmental Assessment for activities identified by 25 Pa. Code 105.15, and for those activities identified at 25 Pa. Code 105.12(a)(11) and 105.12(a)(16); ~~or~~ (Note: No application permit submittal is necessary to PADEP for other activities identified as waived in 25 Pa. Code 105.12 (a) (1) through (10) and (12) through (15), however these may require a Corps permit application submittal as discussed below.)

(d) For Non-Corps Federal projects, submitting an Environmental Assessment Form as required by PADEP Chapter 105.15, and submitting it to the appropriate PADEP office for 401 Water Quality Certification.

2. For PASPGP-2 Ineligible Activities:

(a) Completing a Federal Section 10/404 Corps permit application and submitting it to the applicable Corps District Office for activities authorized by PADEP District Mining Offices and for activities identified in 25 Pa. Code 105.12(a)(1), Waiver 1.

(b) For activities in PASPGP-2 ineligible waterways, completing a Joint Permit application form and submitting it to the appropriate PADEP office who will forward a copy to the appropriate Corps office for Federal review and approval.

(c) For activities which qualify for PADEP Chapter 105.12 (a) (2) through (16) Waivers or PADEP Letter of Authorization, which involve the discharge of dredged or fill material or structures, including all attendant features both temporary and permanent, that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts which exceeds one acre of waters of the United States, including jurisdictional wetlands, completing a Corps permit application and submitting it to the applicable Corps District Office.

(d) For activities registered for General Permit #15 the applicant must forward a copy of the request to the appropriate Corps office for Federal Review and approval.

(e) For all other activities which involve the discharge of dredged or fill material or structures, including all attendant features both temporary and permanent that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts which exceed one acre of Waters of the U.S. including jurisdictional wetlands, completing a Joint Permit application form and submitting it to the appropriate PADEP office who will forward a copy to the appropriate Corps office for Federal review and approval.

B. Evaluation for PASPGP-2 Eligible Activities:

1. Non-reporting Activities: The following activities are authorized by the PASPGP-1 without notification to the Corps District (activities requiring a PADEP public notice will be screened by Federal agencies through the Pennsylvania Bulletin):

(a) Activities which involve the discharge of dredged or fill material or structures, including all attendant features, both temporary and permanent, that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts to one acre or less of Waters of the United States, including jurisdictional wetlands, or impact 250 linear feet or less of streams, rivers- or other jurisdictional watercourses, channel. For purposes of this permit, the acreage of impact to Waters of the United States includes the fill area plus Waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project, or

(b) Activities which qualify for PADEP Chapter 105.12 (a) (2) through (16) Waivers or PADEP Letter of Authorization, which involve the discharge of dredged or fill material or structures, including all attendant features both temporary and permanent, that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts to one acre or less of waters of the United States, including jurisdictional wetlands, or 250 linear feet or less of streams, rivers or jurisdictional watercourses. Activities which involve the discharge of dredged, excavated, or fill material or structures into Waters of the United States and qualify for PADEP Chapter 105.12(a) Waivers, except Waiver 1.

(c) Activities registered under PADEP General Permits, including General Permit #3 for Bank Rehabilitation and Protection impacting of up to 500 linear feet or less and General

Permit #3 for gravel bar removal provided the impact is 250 linear feet or less, within 50 feet upstream and/or downstream of existing culverts and bridges.

(d) Maintenance activities for bridges and culverts within 50 feet upstream and downstream of a structure, performed in accordance with the maintenance provision of a previously issued PADEP permit.

2. Reporting Activities: PADEP must report the following activities to the Corps District for review and evaluation:

~~(a) Activities which involve the discharge of dredged, excavated, or fill material or structures, including all attendant features, both temporary and permanent, that is part of a single and complete project that individually or cumulatively impact more than one acre of Waters of the United States, including wetlands. For purposes of this permit, the acreage of impact to Waters of the United States includes the fill area plus Waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project, or~~

(a) Any activity including all attendance features, both temporary and permanent, that is part of a single and complete project that individually or cumulatively impacts more than 250 linear feet of streams, rivers or other jurisdictional watercourse except bank rehabilitation and restoration activities, authorized under General Permit #3, that impact less than 500 linear feet. This threshold is applied to the total impact of all components of a single and complete project, regardless of the type of PADEP authorization or combination of authorizations, used to approve the project. (for the purposes of this condition, the linear footage of impact shall be measured along the centerline of the stream-watercourse when both banks of the watercourse-stream are involved or along a single streambank when one streambank is involved, or measured across the watercourse, from top of bank to top of bank, when the project extends transversely across the watercourse).

~~(b) Gravel bar removal activities registered under PADEP General Permit unless within 50 feet of an existing culvert or bridge; or~~

(b) Activities which involve the placement of dams, weirs or permanent fill which obstruct the passage of diadromous fish, stream channelization, stream relocation or the placement of pilings or structural supports which have the same effect of a discharge of fill material in the Juniata River mainstream, including the Raystown Branch to Raystown Lake and Frankstown Branch to Holidaysburg; or the Susquehanna River mainstem, the New York State line and the West Branch Susquehanna River to Lock Haven.

(c) Any activity within French Creek (a tributary of the Allegheny River) and the following tributaries of French Creek: LeBoeuf Creek, Conneaut Outlet and Conneaut Creek.

(d) Activities which occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system. The list of such rivers is contained in Part III, Section C.5. (Activities located waterward of the OHW or MHT lines in the Delaware River and the Allegheny River are currently ineligible for the PASPGP-2);

(e) Any activities having potential to affect the structural elements or hydraulic capacity of a Corps flood control project;

(f) For a proposed activity that is submitted as a permit modification, it will be forwarded to the Corps if the Corps was previously involved in the review of the original authorization, or, the Corps was not involved previously but the modification causes the impact to exceed the reporting threshold (250 linear feet of stream) or the eligibility limit (one acre of jurisdictional wetland);

(g) Any activity eligible for a PADEP Emergency Permit that exceeds 250 linear feet of gravel bar removal, or other type of stream impact.

C. Federal Application Evaluation:

For reported activities and for non-reporting activities brought to the Corps' attention, the Corps District will evaluate the application for possible PASPGP-24 authorization or other Federal authorization including a Corps Individual Permit or NWP. The Corps District will use the following criteria to determine if an Corps Individual Corps Permit is required or if the activity is eligible for authorization by PASPGP-24:

1. Whether the proposed activity will result in more than minimal individual or cumulative adverse environmental effects, or will be contrary to the public interest.
2. Whether the activity complies with the 404(b)(1) Guidelines.
3. Whether any proposed mitigation the applicant has included in the proposal has been appropriately sequenced in conformance with the 404(b)(1) Guidelines.
4. Based upon the importance of the wetlands as per 33 CFR 320.4(b), the Corps District will determine the applicability of the PASPGP-24 to discharges or structures which cause the loss or substantial modification of wetlands and will determine on a project-by-project basis whether to authorize the discharge or structures under the PASPGP-24.
5. Whether the activity complies with the conditions of PASPGP-24.
6. Reporting Activities. The Corps District will notify the resource agencies and allow 15 days for comments on the proposed activity before notifying the PADEP of the permit decision. Resource agencies will be notified for gravel bar removal projects impacting greater than 250 feet. Any gravel bar removal project which the Corps has determined to be unregulated, will not require a PASPGP. When coordination with the Pennsylvania State Historic Preservation Officer results in identification of a potential Section 106 affect within the permit area, or coordination with the U.S. Fish and Wildlife Service results in identification of a Federally listed threatened or endangered species within a 0.5 mile radius of the project site, the project will follow reporting procedures. Where reporting procedures are initiated due to Section 106 or endangered species concerns, the Corps will allow up to 30 days for comment by the applicable agency.
7. Non-Reporting Activities. The Corps or rResource agencies may review the Pennsylvania Bulletin to determine if formal Corps review is required for all projects, on a case-by-case basis. One copy of the permit application will be maintained in the PADEP Regional Office for Federal agency review. Resource agencies may request a formal Federal review of the permit application by notifying the appropriate Corps District office, prior to the expiration of the comment period in the Pennsylvania Bulletin. The Corps District will provide the remaining resource agencies with copies of the permit application and the opportunity for review and comment on the proposed activity.
8. Based upon these criteria, the Corps District may require a Corps Individual Section 10/404 permit or a NWP, or may notify PADEP that the activity is eligible for authorization under PASPGP-24, with or without special conditions.

D. Agency Objection:

If any agency objects to authorization of a specific project under PASPGP-24, within the comment period and the Corps District does not concur with the agency's objection, the agency has an additional 15 days for a Division Director (EPA, FWS, NMFS) or Executive Director of state resource agencies to express a formal objection, within their area of expertise and/or authority, to authorization under the PASPGP-24. The Corps District will attempt to resolve the objection, within 45 days of receipt of the objection. If the Corps District cannot resolve an objection by the District agency within 45 days, that application will not qualify for authorization under PASPGP-24, and the Corps will evaluate the activity under Individual Permit procedures. However, should all objectives be resolved, the applicability of PASPGP-24 may be reinstated and may include project specific conditions to protect the public interest.

E. Federal Permit Authorization:

1. If the Corps District determines that the activity complies with all the terms and conditions of the PASPGP-~~2+~~ and that the adverse effects are minimal, the Corps District will notify PADEP within 45 days of receipt of the joint application that the proposed action meets the requirements of the PASPGP-~~2+~~, or meets the requirements of the PASPGP-2 with the inclusion of project-specific conditions.
2. The Corps District may notify PADEP and prospective permittee, prior to the expiration of the 45-day deadline, that an extension of the 45-day limit is required to complete the Corps District's evaluation. Such notification will be in writing; state the reason for the time extension and state how long the extension beyond 45 days will be needed. The requested extension will automatically replace the time limits stated above.
3. If the Corps District determines that the adverse effects of the proposed activity are more than minimal, then the District will notify PADEP and the applicant within 45 days of receipt of the application that the proposed activity does not qualify for authorization under the PASPGP-~~2+~~, and instruct the applicant that authorization under an Individual Permit according to the existing procedures in the Federal Regulations (33 CFR 320-330) is required.
4. For activities which qualify under the PASPGP-~~2+~~, PADEP will indicate that the activity is also authorized under Section 404 of the CWA and/or Section 10 of the River and Harbor Act and provide a copy of the PASPGP-~~2+~~ conditions and, if applicable, project-specific conditions provided by the Corps.
5. Activities which do not qualify for the PASPGP-~~2+~~ must be authorized by ~~separate PADEP Chapter 105 permits, one or more of the following:~~ CWA Section 404 or Section 10 permits, Nationwide Permits, ~~and~~ 401 Water Quality Certifications and Coastal Zone Consistency Determination.

Part V – Enforcement:

Any activity performed in any Federally regulated waters, including wetlands, that is not in total compliance with all the terms and conditions, of the PASPGP-~~2+~~ constitutes unauthorized work and is subject to an enforcement action by the Department of the Army or the EPA. Furthermore, this PASPGP-1 does not delegate any Federal Section 10/404 enforcement or regulatory authority to any non-Federal Section 10/404 agency. When unauthorized work occurs in a Federally regulated wetland or other waters, it is subject to one or more of the following responses by EPA and/or the Corps of Engineers.

- A. A Cease and Desist Order and/or an administrative compliance order requiring remedial action.
- B. Initiation and assessment of Class I administrative penalty orders pursuant to Section 309(g) of the CWA up to \$10,000 per violation.
- C. Initiation and assessment of a Class II administrative penalty for a continuing violation of \$10,000 per day up to a maximum of \$125,000.
- D. Referral of the case to the U.S. Attorney with a recommendation for civil or criminal action.
- E. If the Corps District determines that an after-the-fact application is appropriate, it will be evaluated following the appropriate permit processing procedures.

Part VI – PASPGP-1 Monitoring and Re-evaluation:

- A. The Baltimore District Engineer, in consultation with the other Corps District and Division Engineers, will periodically review the PASPGP-2 and its terms, conditions, and processing procedures and will decide to either modify, reissue, or revoke the permit. If the PASPGP-~~2~~⁺ is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void on _____, 2005. Activities which have commenced or are under contract to commence in reliance upon prior authorization of the PASPGP-~~2~~⁺ will remain authorized provided the activity is completed within the terms specified within the PADPEP Chapter 105 Permit or within three years of the project specific permit issuance date, whichever is less, unless the Corps of Engineers has determined that the specific activity does not qualify for authorization under the PASPGP-~~2~~⁺ and exercises Corps authority to modify, suspend, or revoke the authorization in accordance with Department of the Army Regulations at 33 CFR 325.7. Activities completed under the authorization of the PASPGP-~~2~~⁺ continue to be authorized by the PASPGP-~~2~~⁺.
- B. Proposed changes to the state program regulation or state laws will be reviewed by the Corps of Engineers and a determination made through a public interest review, including consultation with appropriate resource agencies, to the continued use of the PASPGP-~~2~~⁺ with the modified State regulation or State law.
- C. PADEP will provide periodic reports to the Baltimore District Engineer describing their implementation of the PASPGP-~~2~~⁺

Part VII - Modification, Suspension, or Revocation of the PASPGP-~~2~~⁺:

- A. The Corps District may suspend, modify, or revoke the PASPGP-~~2~~⁺ authorization for any specific geographic area, class of activities, or class of waters within the District, by notifying PADEP and issuing a public notice notifying ~~the PADEP and the permittee involved~~ the general public ~~and the permittee involved~~. The notice will state the concerns regarding the environment or other relevant factors of the public interest. Before the Corps District modifies or revokes such PASPGP-~~2~~⁺ authorizations, the District will provide, if appropriate, a grandfathering period for those who have commenced work or are under contract to commence work in reliance on the PASPGP-~~2~~⁺ authorization; and notify affected parties of the modification, suspension, or revocation, including the effective date. A Corps District may also suspend, modify, or revoke a project specific activity's authorization under the PASPGP-~~2~~⁺ at any time.
- B. Substantive changes to the Pennsylvania Chapter 105 program may require immediate suspension and revocation of the PASPGP-1 in accordance with 33 CFR 325.7.

By Authority of the Secretary of the Army: